

Exhibit

5

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

EMPLOYERS MUTUAL CASUALTY)
COMPANY,)

Plaintiff,)

V.

ARNBERG & ALLEN CONSTRUCTION,)
L.L.C.; STEPHEN D. ARNBERG,)
JIM ALLEN, MICHAEL O. LUNSFORD)
and DEBRA O. LUNSFORD.)

Defendants.)

CIVIL ACTION NO:
2:05 -CV-01108-MEF

AFFIDAVIT OF TERRY HARDESTY

STATE OF ALABAMA)

SHELBY COUNTY)

Before me, the undersigned, a Notary Public in and for the aforesaid county and state, personally appeared Terry Hardesty, who is known to me and who, having been duly sworn by me, deposes and says: . . .

1. My name is Terry Hardesty. I am a resident citizen of the State of Alabama.


I am the claims supervisor for Employers Mutual Casualty Company (“EMCC”) at all relevant times for this claim. I am over twenty-one (21) years of age and have personal knowledge of the facts set forth in this

affidavit. I am competent to testify about the matters set forth in this affidavit made in support of EMCC's Motion for Summary Judgment.

2. EMCC was first informed of this claim on October 27, 2004 when Thompson Insurance, Inc. faxed the notice to EMCC. The notice is attached hereto as Exhibit A.

Further the affiant saith not.

Done this the _____ day of November, 2006.



Terry Hardesty
Employers Mutual Casualty Company

STATE OF ALABAMA)
)
SHELBY COUNTY)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Terry Hardesty whose name is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of such instrument, Terry Hardesty executed the same voluntarily on the day the same bears date.

Given under my hand, this 16 day of November, 2006.



NOTARY PUBLIC

My Commission Expires: _____

Kim Cooper, Alabama State at Large
My Commission Expires July 5, 2008

Exhibit

A

ACORD

GENERAL LIABILITY NOTICE OF OCCURRENCE/CLAIM

PRODUCER PHONE (A/C, No, Ext): 334-277-8970		NOTICE OF OCCURRENCE DATE OF OCCURRENCE AND TIME: 10/26/04		OP ID RM DATE: 10/27/04	
Thompson Insurance, Inc. 2951 Zelda Road (36106) P.O. Box 11408 Montgomery AL 36111-0408 George W. Thompson, III		EFFECTIVE DATE: 01/01/00 EXPIRATION DATE: 01/01/05 COMPANY: EMC Companies NAIC CODE: _____		DATE OF CLAIM: _____ PREVIOUSLY REPORTED: YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> POLICY TYPE: <input checked="" type="checkbox"/> OCCURRENCE <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> RETROACTIVE DATE: _____	
AGENCY: _____ CUSTOMER ID: ARNBE-1		POLICY NUMBER: 2K07242		MISCELLANEOUS INFO (Site & location code): _____	
INSURED		REFERENCE NUMBER			

NAME AND ADDRESS Arnberg and Allen 55 Emerald Mountain Express Wetumpka AL 36093		CONTACT NAME AND ADDRESS JIM ALLEN RESIDENCE PHONE (A/C, No): (334) 514-1176 BUSINESS PHONE (A/C, No, Ext): ARLEN		CONTACT INSURED WHERE TO CONTACT WHEN TO CONTACT	
SOC SEC #: _____		RESIDENCE PHONE (A/C, No): 334 567-2001		BUSINESS PHONE (A/C, No, Ext): _____	

OCCURRENCE

LOCATION OF OCCURRENCE (include city & state): _____

DESCRIPTION OF OCCURRENCE (Use separate sheet, if necessary): CLMT, LUNGSFORD, HAS CONTACTED INS RE DAMAGE TO HOUSE..PORCH SEPARATING FROM HOUSE, ETC. EMC HAD COVERAGE FROM 1-1-00 TO 1-1-05

AUTHORITY CONTACTED: _____

POLICY INFORMATION

COVERAGE PART OR FORMS (insert form #s and edition dates):

GENERAL AGGREGATE: 2000000	PROD/COMP OF AGG: 2000000	PERS & ADVINJ: 1000000	EACH OCCURRENCE: 1000000	FIRE DAMAGE: 100000	MEDICAL EXPENSE: 5000	DEDUCTIBLE: 1000	PD BI: <input checked="" type="checkbox"/>
----------------------------	---------------------------	------------------------	--------------------------	---------------------	-----------------------	------------------	--------------------------------------------

UMBRELLA/EXCESS: _____ CARRIER: _____

TYPE OF LIABILITY

PREMISES: INSURED IS ☐ OWNER ☐ TENANT ☐ OTHER: _____

OWNER'S NAME & ADDRESS (If not insured): _____	TYPE OF PREMISES: _____
PRODUCTS: INSURED IS <input type="checkbox"/> MANUFACTURER <input type="checkbox"/> VENDOR <input type="checkbox"/> OTHER: _____	OWNERS PHONE (A/C, No, Ext): _____
MANUFACTURER'S NAME & ADDRESS (If not insured): _____	TYPE OF PRODUCT: _____
WHERE CAN PRODUCT BE SEEN? _____	MANUFACT PHONE (A/C, No, Ext): _____
OTHER LIABILITY INCLUDING COMPLETED OPERATIONS (Explain): _____	

INJURED/PROPERTY DAMAGED

NAME & ADDRESS: MICHAEL LUNSFORD
LTR FROM INS ATTACHED

AGE: _____ SEX: _____ OCCUPATION: _____	PHONE (A/C, No, Ext): _____
DESCRIBE INJURY: _____	PHONE (A/C, No, Ext): _____
EMPLOYER'S NAME & ADDRESS: _____	WHAT WAS INJURED DOING? _____
WHERE TAKEN: _____	WHEN CAN PROPERTY BE SEEN? _____
ESTIMATE AMOUNT: _____	WHERE CAN PROPERTY BE SEEN? _____

WITNESSES

NAME & ADDRESS: _____	BUSINESS PHONE (A/C, No, Ext): _____	RESIDENCE PHONE (A/C, No): _____
-----------------------	--------------------------------------	----------------------------------

REMARKS: FAXED TO EMC ON 10-27-04

REPORTED BY INS: _____ REPORTED TO RETHA: _____ SIGNATURE OF INSURED: _____ SIGNATURE OF PRODUCER: George W. Thompson, III

NOTE: IMPORTANT STATE INFORMATION ON REVERSE SIDE

© ACORD CORPORATION 1998